

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 08 APR 2005

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Applicant's or agent's file reference 010098WO		<b>FOR FURTHER ACTION</b>		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US01/46969	International filing date (day/month/year) 04 December 2001 (04.12.2001)	Priority date (day/month/year) 05 December 2000 (05.12.2000)		
International Patent Classification (IPC) or national classification and IPC				
IPC(7): H04B 1/00 and US CL: 455/69				
Applicant QUALCOMM INCORPORATED				
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>—</u> sheets.</p> <p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability</p> <p>IV <input checked="" type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>				
Date of submission of the demand 02 July 2002 (02.07.2002)		Date of completion of this report		
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230		Authorized officer Joy Contee Telephone No. 703-306-0377		

Form PCT/IPEA/409 (cover sheet) (July 1998)

## I. Basis of the report

1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed.
- ☒ the description:  
pages 1-31 \_\_\_\_\_, as originally filed  
pages NONE \_\_\_\_\_, filed with the demand  
pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the claims:  
pages 32 and 33 \_\_\_\_\_, as originally filed  
pages NONE \_\_\_\_\_, as amended (together with any statement) under Article 19  
pages NONE \_\_\_\_\_, filed with the demand  
pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the drawings:  
pages 1-16 \_\_\_\_\_, as originally filed  
pages NONE \_\_\_\_\_, filed with the demand  
pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☐ the sequence listing part of the description:  
pages NONE \_\_\_\_\_, as originally filed  
pages NONE \_\_\_\_\_, filed with the demand  
pages NONE \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

- 4.
- ☐
- The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

- 5.
- ☐
- This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

**IV. Lack of unity of invention**

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.  
☐ paid additional fees.  
☐ paid additional fees under protest.  
☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention is accordance with Rules 13.1, 13.2 and 13.3 is

- ☒ complied with.  
☐ not complied with for the following reasons:

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☐ all parts.  
☐ the parts relating to claims Nos. \_\_\_\_

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US01/46969**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)

Claims 6 YESClaims 1-5, 7-9 NO

Inventive Step (IS)

Claims 1-5, 7-9 YESClaims 1-9 NO

Industrial Applicability (IA)

Claims 1-9 YESClaims NONE NO**2. CITATIONS AND EXPLANATIONS**

Please See Confirmation Sheet

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

**V. 2. Citations and Explanations:**

Claims 1-5, 7-9 lack novelty under PCT Article 33(2) as being anticipated by Sundelin et al., U.S. Patent No. 6,144,861.

Regarding claim 1, Sundelin discloses in a wireless communication system, a method for call recovery comprising: transmitting a pilot strength measurement message at a first transmit power level; waiting a predetermined time period; and transmitting the pilot strength measurement message at a second transmit power level, wherein the second transmit power level is greater than the first transmit power level (col. 5, line 60 to col. 6, line 14).

Regarding claim 2, Sundelin discloses the method of claim 1, wherein the second transmit power level is a maximum transmit power level (col. 6, lines 1-64).

Regarding claim 3, Sundelin discloses a computer program stored on inherent computer readable medium operative to perform the method of claim 1 (col. 4, lines 48-67 and col. 5, lines 1-14).

Regarding claim 4, Sundelin discloses in a wireless communication system, a method comprising: initiating a call recovery; and incrementing a transmit power level prior to receiving a hand-off direction message (col. 6, lines 1-14).

Regarding claim 5, Sundelin discloses the method of claim 4, further comprising: transmitting a pilot strength measurement message at each transmit power level (col. 5, lines 60-67).

Regarding claim 7, Sundelin discloses the method of claim 4, wherein the pilot strength measurement message includes an inherent preamble message (col. 6, lines 1-4).

Regarding claim 8, Sundelin discloses a wireless apparatus, comprising: an antenna; a processor coupled to the antenna; transmit circuitry coupled to the antenna and the processor; and an inherently first set of computer readable instructions executable by the processor (i.e., software algorithms) to increment transmit power of a pilot strength measurement message during call recovery (col. 5, line 60 to col. 6, line 14).

Regarding claim 9, Sundelin discloses the apparatus of claim 8, further comprising: a second set of computer readable instructions executable by the processor to maintain the transmit power below a maximum power level (col. 7, lines 16-43).

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Claim 6 lacks an inventive step under PCT Article 33(3) as being obvious over Sundelin, in view of D'Amico, U.S. Patent No. 5,809,430.

Regarding claim 6, Sundelin discloses claim 4, but fails to explicitly disclose wherein pilot strength measurement messages are transmitted at predetermined time intervals.

In a similar field of endeavor, D'Amico discloses wherein pilot strength measurement messages are transmitted at predetermined time intervals (i.e., time slots (col. 4, lines 21-33)).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Sundelin to include power control messages in a TDMA environment for the purpose of compensating for the varying pilot signals at different times.

Claims 1-9 meet the criteria set out in PCT Article 33(4), and thus meet industrial applicability because the subject matter claimed can be made or used in industry.

## ----- NEW CITATIONS -----

US 6,144,861 A (SUNDELIN et al) 7 November 2000, see columns 5 to 6.

US 5,809,430 A (D'AMICO) 15 September 1998, see column 4.